CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

DECISION

Application no. 9867/02
by Ľubomír ŠTĚRBA and Agáta ŠTĚRBOVÁ against Slovakia

The European Court of Human Rights (Fourth Section), sitting on 7 June 2005 as a Chamber composed of:

Sir Nicolas BRATZA, *President*,
Mr G. BONELLO,
Mr K. TRAJA,
Mr S. PAVLOVSCHI,
Mr L. GARLICKI,
Ms L. MIJOVIĆ,
Mr J. ŠIKUTA, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 15 February 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together.

Having regard to the formal declarations accepting a friendly settlement of the case.

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Ľubomír Štěrba and Mrs Agáta Štěrbová, are spouses. They are Slovakian nationals, who were born in 1930 and in 1934 respectively and live in Martin. They were represented before the Court by Mrs D. Komková, a lawyer practising in Prešov. The respondent Government were represented by their Agent, Mrs A. Poláčková.

The facts of the case, as submitted by the parties, may be summarised as follows.

1. Proceedings concerning the claim for compensation

In 1982 a person from whom the applicants later purchased the real property in question filed an action for compensation for use of that property. In the course of the 1980s the case was examined by courts at three levels of jurisdiction. In 1989 it was registered before the Svidník District Court under file No. 6C 360/89.

On 28 January 2003 the plaintiff specified his claim.

On 2 March 1993 the District Court granted the action in part.

On 23 June 1994 the Košice Regional Court quashed the first instance judgment to the extent that it granted the plaintiff's claim.

On 4 September 1995 an expert opinion was ordered. The opinion was submitted to the District Court on 15 July 1996.

On 4 February 1998 the plaintiff requested that the applicants should replace him in the proceedings as he had sold the property in question to them. On 30 March 1999 the District Court granted the request. The decision became final on 1 April 1999 and the applicants formally became a party to the proceedings as from that date.

On 19 May 1999 the applicants withdrew their claim in respect of one defendant.

Upon the court's instruction the applicants specified their claim on 25 May 1999. On 28 May 1999 they paid an advance on the expert's costs.

On 21 July 1999 the District Court appointed an expert. The expert submitted his opinion on 15 March 2000.

On 14 April 2000 the applicants requested a change in defendants.

On 28 April 2000 and on 4 May 2000 the parties submitted their comments on the expert opinion.

On 16 May 2000 the District Court admitted another person as defendant in the proceedings.

A hearing was held on 15 June 2000.

Between 13 July 2000 and 6 September 2000 the file was with the Prešov Regional Court.

On 10 November 2000 the District Court requested the land registry to submit relevant documents to it. The documents were submitted on 15 December 2000.

Hearings were held on 25 April, on 25 May and on 29 June 2001. On the last mentioned date the District Court stayed the proceedings pending the determination, in a different set of proceedings, of a preliminary question.

On 30 July 2001 the applicants appealed. On 28 September 2001 the Prešov Regional Court quashed the decision of 29 June 2001.

In January 2002 the applicants submitted further information at the District Court's request. On 27 February 2002 the case was adjourned as the parties had not appeared. On 28 February 2002 District Court admitted an amendment to the claim.

On 27 March 2002 the Svidník District Court granted the applicants' claim in respect of the first defendant, discontinued the proceedings as regards the second defendant, and decided to examine in a separate set of proceedings the claim concerning the third defendant. The applicants were ordered to pay a court fee.

On 16 April 2002 the Svidník District Court delivered a supplementary judgment ordering the first defendant to reimburse the costs of the original plaintiff.

On 26 April 2002 the applicants appealed. They challenged the District Court's decision on the costs of the proceedings. One of the defendants also appealed on 7 May 2002.

On 28 April 2003 the Prešov Regional Court modified the sum which the first defendant was to pay to the applicants, quashed the first instance decision on default interest due to the applicants as well as on costs, quashed the District Court's decision in respect of the original plaintiff and dismissed the applicant's appeal against the decision on the court fee. On 20 September 2004 the Supreme Court dismissed the appeal on points of law which one of the defendants had filed against the Regional Court's judgment.

On 9 June 2004 the applicants informed the District Court that they had reached a settlement with the first defendant as regards the default interest. They therefore withdrew the relevant part of their action. The applicants further requested that the District Court should proceed with the case to the extent that it concerned their claim against the third defendant.

On 10 November 2004 the first defendant confirmed that he agreed to the withdrawal of the outstanding claim against him. On 23 November 2004 the District Court discontinued the relevant part of the proceedings on this ground.

2. Proceedings before the Constitutional Court

On 13 December 2001 the Constitutional Court found, upon the applicant's petition under Article 130(3) of the Constitution, a violation of their constitutional right to a hearing without unjustified delay. At that time the relevant law did not permit the Constitutional Court to provide redress to the applicants.

COMPLAINTS

1. The applicants complained under Article 6 § 1 of the Convention about the length of the proceedings concerning the above compensation claim.

2. Under Article 13 of the Convention the applicants complained that they had no effective remedy at their disposal.

THE LAW

On 6 May 2005 the Court received the following declaration signed by the Agent of the respondent Government:

> "I, Alena Poláčková, Agent of the Government of the Slovak Republic, declare that the Government of the Slovak Republic offer to pay 5,000 (five thousand) euros to Mr Ľubomír Štěrba and Mrs Agáta Štěrbová with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Slovakian korunas at the rate applicable on the date of payment and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case."

On 17 May 2005 the Court received the following declaration signed by the applicants' representative:

> "We, Ľubomír Štěrba and Agáta Štěrbová note that the Government of the Slovak Republic are prepared to pay us the sum of 5,000 (five thousand) euros with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Slovakian korunas at the rate applicable on the date of payment and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> We accept the proposal and waive any further claims against Slovakia in respect of the facts giving rise to this application. We declare that this constitutes a final resolution of the case."

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention and to strike the application out of its list of cases.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President